87-583

No. 8573

Supreme Court, U.S.
FILED
JUL 27 1987
JOSEPH F. SPANIOL, JR.
CLERK

# In the Supreme Court

OF THE

# United States

OCTOBER TERM, 1987

RONALD KRILETICH
*Petitioner,*

VS.

COMMISSION ON JUDICIAL PERFORMANCE, et al.,
SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, et al.,
CITY OF HAYWARD, et al.,
*Respondents.*

**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit**

## OPPOSITION BRIEF OF RESPONDENTS CITY OF HAYWARD, ALEX GIULIANI, DONALD BLUBAUGH, JESUS ARMAS, CHARLES PLUMMER, O. GIULIANI, SERGEANT HARRISON, D. GREGORY, BILL COOK, W.F. COOPER, F. PASCALE AND JOHN BEARD

THOMAS F. BERTRAND
BERTRAND & FOX
100 Bush Street, Suite 850
San Francisco, California 94104
(415) 981-8440
*Counsel for Respondents City of Hayward, et al.*

BOWNE OF SAN FRANCISCO, INC. • 190 NINTH ST. • S.F., CA 94103 • (415) 864-2300

## QUESTION PRESENTED

The question presented as to respondents CITY OF HAYWARD and its municipal employees is whether a violation of petitioner's federal constitutional rights occurred when they declined to arrest petitioner's relatives on his complaints charging them with perjury.

## TABLE OF CONTENTS


| | Page |
|---|---|
| Question presented | i |
| Statement of the case | 2 |
| Reasons why petition should be denied | 2 |
| I. Both lower courts concurred in finding petitioner's action without merit and no reason exists for this court to grant certiorari | 2 |
| Conclusion | 4 |


## TABLE OF AUTHORITIES

### Cases


| | |
|---|---|
| Dohaish v. Tooley (1982 CA, 10th Cir.) 670 F.2d 934 | 3 |
| Fields v. United States, 205 U.S. 292 (1907) | 3 |
| Linda S. v. Richard D., 410 U.S. 614 (1973) | 3 |
| National Labor Relations Board v. Pittsburgh S.S. Co., 340 U.S. 498 (1951) | 3 |
| Rice v. Sioux City Memorial Park Cemetery, Inc., 349 U.S. 70 (1955) | 3 |


### Rules


| | |
|---|---|
| Rule 17, Supreme Court Rules | 3 |

No. 8573

# In the Supreme Court

OF THE

# United States

OCTOBER TERM, 1987

RONALD KRILETICH
*Petitioner,*

VS.

COMMISSION ON JUDICIAL PERFORMANCE, et. al.,
SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, et. al.,
CITY OF HAYWARD, et. al.,
*Respondents.*

## OPPOSITION BRIEF OF RESPONDENTS CITY OF HAYWARD, ALEX GIULIANI, DONALD BLUBAUGH, JESUS ARMAS, CHARLES PLUMMER, O. GIULIANI, SERGEANT HARRISON, D. GREGORY, BILL COOK, W.F. COOPER, F. PASCALE AND JOHN BEARD

Respondents City of Hayward and its individually-named municipal employees respectfully request that this Court deny the petition for writ of certiorari seeking review of the Court of Appeals for the Ninth Circuit's opinion in this case (Appendix A, p.p. A-2, A-3 of Petition).

## STATEMENT OF THE CASE

Petitioner Ronald Kriletich on August 16, 1985 filed a 226-page complaint in propria persona with the U.S. District Court for the Northern District of California. This complaint alleged that the numerous named defendants violated petitioner's civil rights and was based upon certain family disputes previously litigated in a state court action. Respondents City of Hayward, Alex Giuliani, Donald Blubaugh, Jesus Armas, Charles Plummer, O. Giuliani, Sergeant Harrison, D. Gregory, Bill Cook, W.F. Cooper, F. Pascale and John Beard (the individual respondents are either police officers or other employees of the City of Hayward) were named, along with many others, as defendants in said complaint.

Respondents City of Hayward, et al., filed with the District Court a motion to dismiss petitioner's complaint, which motion was heard on November 18, 1985. The District Court, upon a number of grounds, granted respondents' motion to dismiss, as well as the motions to dismiss and/or strike made by the other defendants, and ordered the complaint dismissed with prejudice.

Petitioner Kriletich on February 20, 1986 filed a notice of appeal from the District Court order with the Court of Appeals for the Ninth Circuit. The Court of Appeals on April 7, 1987 affirmed the District Court's dismissal order and labeled petitioner's appeal as frivolous, awarding attorney's fees and costs to respondents (Appendix A, p.p. A-2, A-3 of Petition).

## REASONS WHY PETITION SHOULD BE DENIED

### 1. BOTH LOWER COURTS CONCURRED IN FINDING PETITIONER'S ACTION WITHOUT MERIT AND NO REASON EXISTS FOR THIS COURT TO GRANT CERTIORARI

Petitioner Kriletich's allegations against respondents City of Hayward and its municipal employees involved several incidents where respondents declined to act upon petitioner's demands that they arrest members of his family for sending him a $50 check and a Christmas card; vague allegations that his family members were involved in some sort of welfare fraud and should have been

arrested; and petitioner's request to have the Alameda Superior Court Deputy Clerk and other persons arrested for perjury. Kriletich was wholly unable to demonstrate to the District Court any injury suffered as a result of having received a $50 check and a Christmas card. He was not the victim of his family's alleged welfare fraud, nor could he establish any injury resulting from respondents' failure to have the Alameda Superior Court Deputy Clerk and other persons arrested for perjury.

Petitioner's right to equal protection clearly was not violated by respondents' alleged actions. As stated in *Dohaish v. Tooley* (1982 CA., 10th Cir. 1982) 670 F.2d 934, "the ordinary citizen does not have a general interest justifying a lawsuit based on the criminal prosecution or non-prosecution of another [citing *Linda S. v. Richard D.*, 410 U.S. 614, 619, 93 S. Ct. 1146, 1149, 35 L. Ed.2d 536 (1973)]. Such a right is not recognized in the law and, indeed, it would be contrary to public policy to allow every private citizen to force the prosecutor to proceed with a case in pursuit of a private objective" (at page 937).

As the Court of Appeals for the Ninth Circuit stated in its opinion affirming the District Court's dismissal order (Appendix A, p.p. A-2,A-3 of petition):

> "The police officers who refused to arrest the plaintiff's relatives on his complaints charging them with perjury did not violate any of the plaintiff's federal constitutional rights. The municipal government of Hayward in hiring and training the police officers who refused to make the desired arrests did not violate any of the plaintiff's federal constitutional rights."

Petitioner's case involves only personal complaints against his own family members and is utterly devoid of any general importance, public significance or legal import. This Court does not sit for the benefit of particular litigants and petititioner has totally failed to meet any of the criteria required for review on certiorari (See *Rice v. Sioux City Memorial Park Cemetery, Inc.* (1955) 349 U.S. 70; *National Labor Relations Board v. Pittsburgh S.S. Co.* (1951) 340 U.S. 498; *Fields v. United States* (1907) 205 U.S. 292. See also Rule 17, Supreme Court Rules).

## CONCLUSION

For these reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

THOMAS F. BERTRAND
BERTRAND & FOX
100 Bush Street, Suite 850
San Francisco, California 94104
(415) 981-8440

*Counsel for Respondents*
*City of Hayward, et al.*